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Attorney for Amicus Associations

UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON  
PORTLAND DIVISION

MCKENZIE FLYFISHERS,  
STEAMBOATERS,

Plaintiffs,

v.

BRUCE MCINTOSH, SCOTT PATTERSON,  
OREGON DEPARTMENT OF FISH,

Defendants

) Case No. 6-13-CV-02125-TC

)

) DECLARATION OF

) BROOKS EILERTSON,

) FOR AMICUS CURIAE

)

)

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I, Brooks Eilertson, under penalty of perjury, do hereby declare:

For decades I have worked for northwest retail businesses directly associated with sportfishing. I am a member of the Board of Directors for the Northwest Sportfishing Industry Association. At present, I am the Apparel and Marine buyer for Fisherman's Marine and Outdoor, a retail business whose headquarters are in Portland, Oregon with outlets in Portland, Tigard and Oregon City.

Fisherman's Marine and Outdoor is dependent on a robust spring Chinook fishery on the Willamette River. Our store in Oregon City is approximately two blocks from the historic salmon fishing that has taken place for more than a century in the stretch of river

from Willamette Falls down to the mouth of the Clackamas River. From January through June, most people on their way to fish this popular stretch of the river stop by our Oregon City store before they launch their boat or search the waters from the river bank for the prized Willamette River spring Chinook.

Participation varies based on the run strength. In years with a strong return and subsequent good opportunity to catch a fish, our sales are strong. In weak run years our business suffers. The tackle and supplies for this fishery are the highest contributor of any single fishery not only to the Oregon City store's total sales, but also to our other two stores that service the Portland area market. Because we are a specialty retailer, people come to our stores if they intend to fish for "Springers" in other parts of the Willamette, from the upriver tributaries to the mouth where it enters the Columbia River in Portland, including a major fishery in Willamette Slough which branches from the main stem Willamette and meets the Columbia River at the town of St. Helens.

Based on my years of working in and providing for the needs of this fishing market, I am convinced that the opportunity for anglers to have a reasonable chance of catching a fish that they can take home is central to angler participation in this fishery. I am also convinced that without this fishery, our company would not exist, nor would my job and the jobs of more than a hundred other local people who are employed by Fisherman's Marine and Outdoor. Our business would also no longer be here to support the small "cottage industry" businesses that provide innovative tackle targeting this unique and extremely popular fishery. These small business people typically don't get to sell their wares to the mega-retailers whose headquarters are elsewhere in the U.S. and

the world. Losing these craft businesses would be a great loss both to fishing know-how and to the Northwest culture.

Maintaining good harvestable numbers of spring Chinook in the Willamette River is important for other reasons as well. While the Columbia River has had improved runs and fishing opportunities over the last 14 years, culturally and logistically the Columbia cannot provide the same opportunities as those provided by the Willamette fishery. The Columbia is not safe for many of the smaller crafts that fish the Willamette, including small motorboats, drift boats, and even kayaks. Salmon fishing effort is on full display in spring throughout the city of Portland. Business people in skyscrapers and tourists walking along the Esplanade can marvel at fishermen netting silver bright 20-pound salmon. Those images make our Northwest lifestyle desirable to many who would like to locate to one of the top cities on the west coast. It is what attracted my father to this city when he was considering a transfer offered to him by his employer the DuPont Company.

As for my own ties to the Willamette River, I was born in North Portland. I learned at an early age that I loved to fish. It was my passion and a safe place to be emotionally. While others in my peer group looked to drugs and alcohol to “find entertainment,” I planned fishing trips and went fishing. I surrounded myself with others who had the same passion. Obviously I was anxious to teach my kids to fish. Both of my sons caught their first salmon from the Willamette River. I have fished in Portland Harbor with members of the U.S. House of Representatives, and with owners and representatives of Oregon companies that employ thousands of Oregonians. Many a business deal has been consummated while fishing for salmon in the Willamette.

Many of my favorite family memories came from salmon fishing trips on the Willamette. I have fond memories of fishing at different times with my parents and oldest brother, all whom have passed away. I have a favorite picture of my mom in her mid 80's holding up a beautiful Springer. Every spring at some point, usually several times during the run, I will launch my boat before sunrise at Willamette Park and run down through Portland so I can enjoy or share with my passenger, the predawn beauty of my childhood hometown. The Willamette River is special to me. I spent time as a Willamette River Guardian, and as such adopted a stretch of river to monitor river conditions and wildlife for the Willamette River Keepers. Although most would argue that the Willamette is not near the natural wonder it once was, I can attest to seeing improvements over the years from the time, as a teenager, looking down from the Broadway bridge, I wondered "what could ever live in this cesspool".

Before joining Fisherman's Marine, I spent most of my career with G.I. Joe's, once a very successful local company that had stores throughout the Willamette Valley. Serving as "Joe's" tackle buyer in the late 80's and the 90's, I experienced firsthand what impacts dwindling salmon seasons had on our business. I was also present in Clackamette Park in 2000 when an Oregon Congressional Representative helped celebrate the reopening of the Willamette River to Chinook angling seven days a week after the marking of hatchery fish was implemented, allowing anglers to fish selectively for hatchery Chinook.

The reopening of a reliable spring Chinook season had an incredible impact on sportfishing businesses, and I believe it is a large part of why my current employer, Fisherman's Marine and Outdoor, was able to grow and expand to the significant local

retail success it is today. As a regional retailer, we have to compete with the very large but somewhat homogenous tackle selections of national retailers. To differentiate ourselves from those national retailers and capture a market share sufficient to sustain our business, we must focus on our regional fisheries and be nimble in finding the niches that will keep us alive. The Willamette Spring Chinook fishery is one such niche.

During the height of the Willamette's spring Chinook season March through May, fishing tackle sales make up 43% of my company's total revenue. (See Exhibit 1.) Fifty-nine percent of that revenue is generated by sale of tackle for spring Chinook. (See Exhibit 2.) But that's not all spring Chinook contribute to our business. Enthusiasm for the spring Chinook fishery also spurs sales in our other departments, particularly electronics and marine equipment. In fact, it's fair to say that from March through May, spring Chinook are responsible for generating at least 38% of our total revenue. (See Exhibit 3.)

These Willamette fish pay wages and benefits for local men and women. Based on the revenue generated by sales during the spring Chinook season, Fisherman's Marine estimates that this fishery alone supports 58 full time employees including benefits. If the fishery becomes less relevant, or provides less opportunity, we will have to lay off employees, and the viability of our business will be at risk. We estimate that a 20% decline in business as a result of cutbacks to this fishery would likely result in a minimum of 10 people losing their jobs at Fisherman's Marine. That estimate does not include the effects our losses would have on our vendors and support communities.

The multiplier effect on the Oregon economy of a Willamette River spring Chinook retention season is illustrated by Exhibit 4, which shows an advertisement we

ran for last year's spring Chinook kickoff. Four-page ads similar to this typically run every year in *The Oregonian* and *The Columbian* (Vancouver) during the spring Chinook season. We pay a local media company to build these ads. We pay a local printer. We pay *The Oregonian* and *The Columbian* to distribute over 250,000 of these ads. This particular ad offers 109 items for sale. Eighty-two percent of the items were chosen specifically to interest spring Chinook fisherman. Twenty-two percent of those items represent businesses that are located within 100 miles of our office, many of them small businesses. All of those items have factory representatives or sales personal who are located in the Northwest. Many of those people live and work within 100 miles of our office. This ad is just one of four ads we run during this time period.

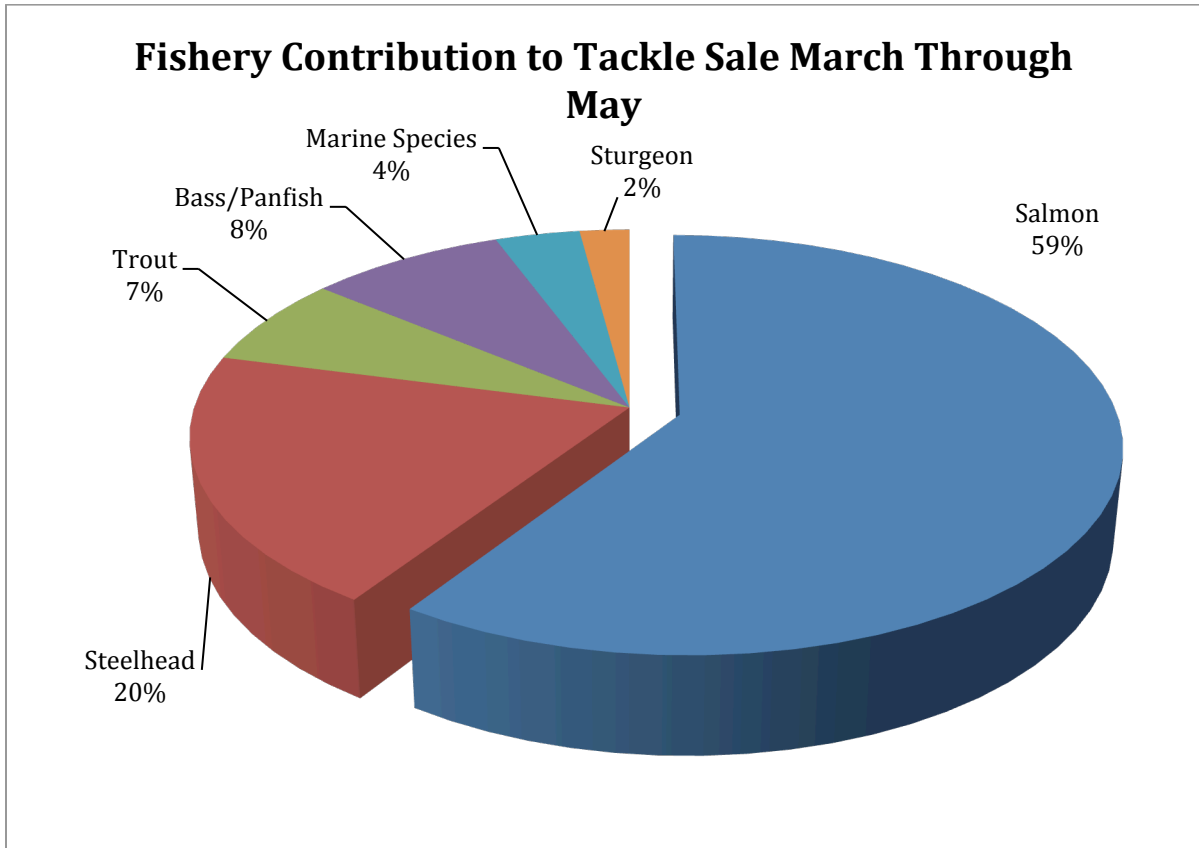
What's more, the economic effect of this fishery is not exclusive to our retail establishments and business partners. Other local businesses that see benefits from a strong Willamette River spring salmon fishery include boat manufacturers, boat moorages, boat sales and service facilities, banks, airlines, restaurants, grocery stores, hotels, insurance companies, truck dealerships and service facilities, baby sitters and dog sitters, and of course other tackle retailers, large and small. There are impacts that would never be measured unless they were to disappear. I am hoping that never happens.

**I hereby declare that the above statement is true to the best of my knowledge and belief, and that I understand it is made for use as evidence in court and is subject to penalty for perjury.**

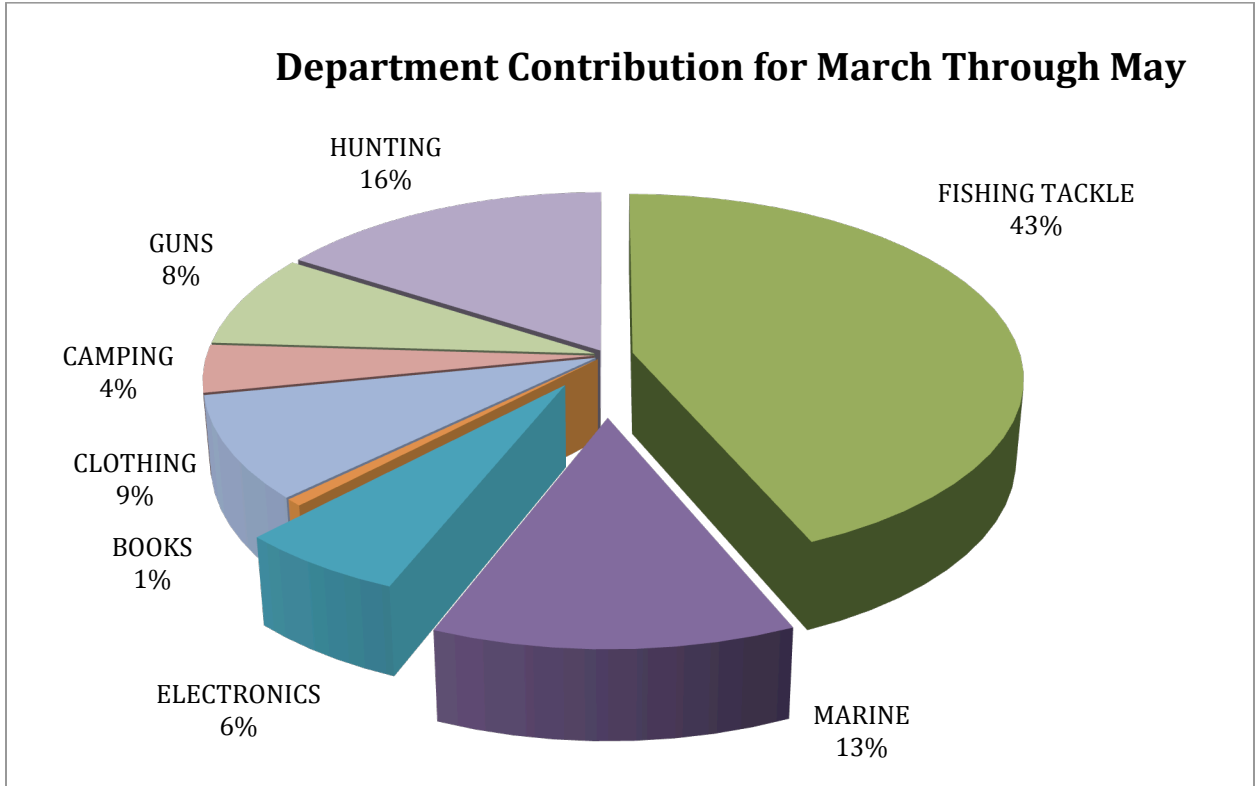
Dated this 16th day of December, 2014.

/s /Brooks Eilertson  
Brooks Eilertson

EILERTSON EXHIBIT 1

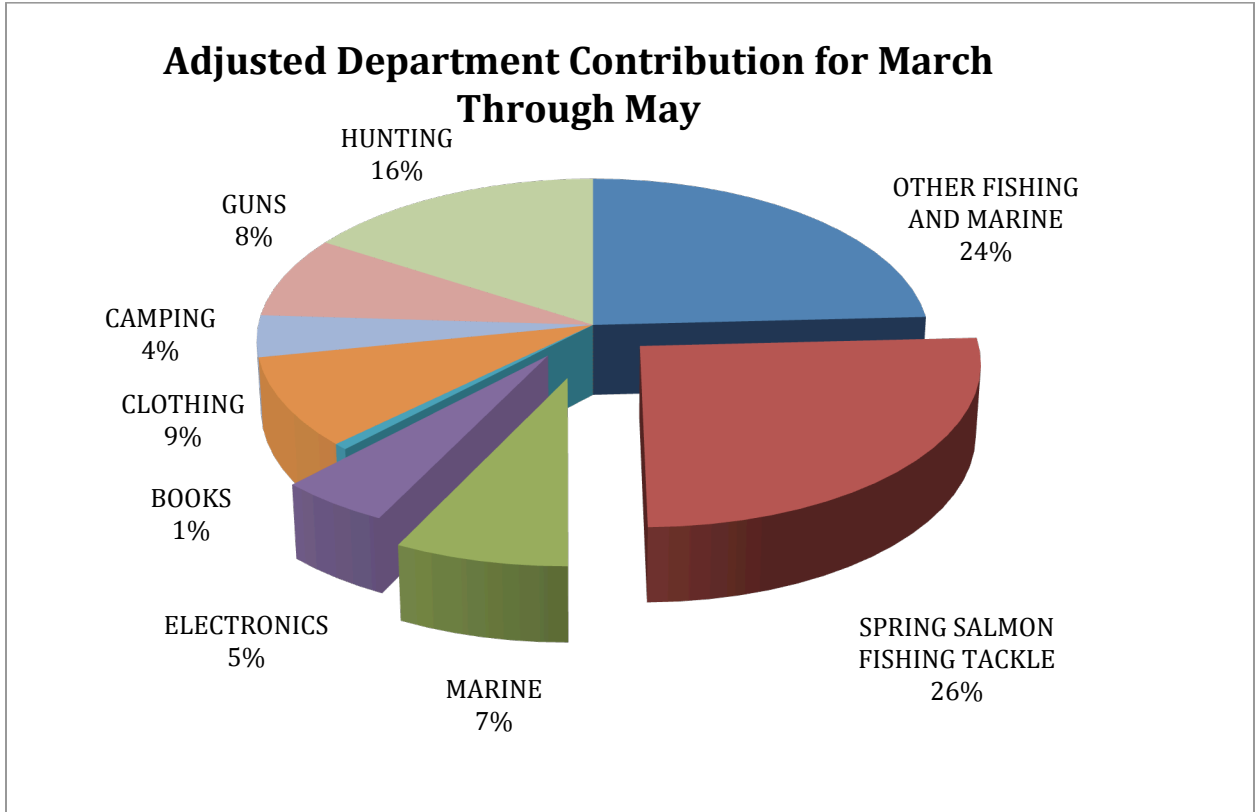


EILERTSON EXHIBIT 2





ELIERTSON EXHIBIT 3





## Page 3 and Back Page of Spring Gear Up Sale



Sticky notes next to logo indicate a local company (within 100 miles)

**Fisherman's Marine & Outdoor**

Portland Delta Park 7300 N. Hayden Meadows Dr. 503.381.0044  
Oregon City Shopping Center 1900 SE McLoughlin Blvd. 503.557.3010  
Tigard 10355 SW Cascade Ave. 503.549.5066

**49<sup>99</sup>-79<sup>99</sup>**  
SOLID BRAID-WILSON ANCHOR ROPE  
1/2" x 300' - 100' x 100' - 100' x 100' - 100' x 100'

**20% OFF**  
ALL ANCHORS  
LIMITED TO STOCK ON HAND

**15<sup>99</sup>**  
METH ROPE BAG  
100' x 100' - 100' x 100' - 100' x 100' - 100' x 100'

**10<sup>99</sup>-19<sup>99</sup>**  
BOAT FENDERS  
1/2" x 100' - 1/2" x 100' - 1/2" x 100' - 1/2" x 100'

**26<sup>99</sup>**  
LED NAVIGATION LIGHT KIT  
100' x 100' - 100' x 100' - 100' x 100' - 100' x 100'

**20% OFF**  
ALL FUEL FITTINGS & FUEL LINES  
LIMITED TO STOCK ON HAND

**10<sup>99</sup>**  
STAR-TROL FUEL TREATMENT  
100' x 100' - 100' x 100' - 100' x 100' - 100' x 100'

**18<sup>99</sup>-20<sup>99</sup>**  
USCA APPROVED FIRE EXTINGUISHERS  
100' x 100' - 100' x 100' - 100' x 100' - 100' x 100'

**19<sup>99</sup>**  
SHAKE TIRE CARRIER  
100' x 100' - 100' x 100' - 100' x 100' - 100' x 100'

**89<sup>99</sup>-139<sup>99</sup>**  
BUNK GUARD-ONS  
100' x 100' - 100' x 100' - 100' x 100' - 100' x 100'

**29<sup>99</sup>**  
TONGUE JACK  
100' x 100' - 100' x 100' - 100' x 100' - 100' x 100'

**20% OFF**  
ALL SEADOG DOCK LINES  
LIMITED TO STOCK ON HAND

**20% OFF**  
ALL FUEL FITTINGS & FUEL LINES  
LIMITED TO STOCK ON HAND

**20% OFF**  
ALL GROUNDERS COMMERCIAL GRADE RAIN GEAR  
LIMITED TO STOCK ON HAND

**17<sup>99</sup>**  
ALORCA PREVAL WADING SOCKS  
100' x 100' - 100' x 100' - 100' x 100' - 100' x 100'

**149<sup>97</sup>**  
KORNER'S WHITEBOARDS  
100' x 100' - 100' x 100' - 100' x 100' - 100' x 100'

**99<sup>97</sup>**  
WINCHESTER MAXX BOOTFOOT  
100' x 100' - 100' x 100' - 100' x 100' - 100' x 100'

**119<sup>97</sup>**  
MEN'S MILK RIVER OIL  
100' x 100' - 100' x 100' - 100' x 100' - 100' x 100'

**99<sup>97</sup>**  
WINCHESTER MAXX BOOTFOOT  
100' x 100' - 100' x 100' - 100' x 100' - 100' x 100'

**39<sup>97</sup>**  
SLUNG CHAIR  
100' x 100' - 100' x 100' - 100' x 100' - 100' x 100'

**79<sup>97</sup>**  
BUDDY HEATER  
100' x 100' - 100' x 100' - 100' x 100' - 100' x 100'

**299<sup>97</sup>**  
LOWRANCE ELITE-A COMBO GOLD  
100' x 100' - 100' x 100' - 100' x 100' - 100' x 100'

**124<sup>97</sup>**  
UNIMEN OCEANUS D-50C  
100' x 100' - 100' x 100' - 100' x 100' - 100' x 100'

**29<sup>99</sup>**  
FAT BOY FILLET BOARD  
100' x 100' - 100' x 100' - 100' x 100' - 100' x 100'

**11<sup>99</sup>**  
FILLET GLOVES  
100' x 100' - 100' x 100' - 100' x 100' - 100' x 100'

**4<sup>99</sup>-8<sup>99</sup>**  
FISH CLEANING MATS  
100' x 100' - 100' x 100' - 100' x 100' - 100' x 100'

**Fisherman's Marine & Outdoor**

Portland Delta Park 7300 N. Hayden Meadows Dr. 503.381.0044  
Oregon City Shopping Center 1900 SE McLoughlin Blvd. 503.557.3010  
Tigard 10355 SW Cascade Ave. 503.549.5066

**14<sup>97</sup>**  
GENERAL PURPOSE BOAT VEST  
100' x 100' - 100' x 100' - 100' x 100' - 100' x 100'

**\$50 OFF**  
CHROME RODS  
100' x 100' - 100' x 100' - 100' x 100' - 100' x 100'

**7<sup>99</sup>**  
FUEL WATER SEPARATOR  
100' x 100' - 100' x 100' - 100' x 100' - 100' x 100'

**\$5 OFF**  
SEAL SKIN SOCKS & GLOVES  
100' x 100' - 100' x 100' - 100' x 100' - 100' x 100'

**379<sup>99</sup>**  
CND GUN  
100' x 100' - 100' x 100' - 100' x 100' - 100' x 100'

**49<sup>97</sup>**  
FOOT MACHINE COOKER  
100' x 100' - 100' x 100' - 100' x 100' - 100' x 100'

**788**  
8" FILLET KNIFE  
100' x 100' - 100' x 100' - 100' x 100' - 100' x 100'

**16<sup>99</sup>-32<sup>99</sup>**  
SEA ANCHORS  
100' x 100' - 100' x 100' - 100' x 100' - 100' x 100'

**19<sup>97</sup>**  
TAC 400, 300 LUMEN LED FLASHLIGHT  
100' x 100' - 100' x 100' - 100' x 100' - 100' x 100'

**18<sup>99</sup>**  
ROCK SWIMMING REELS  
100' x 100' - 100' x 100' - 100' x 100' - 100' x 100'

**12<sup>97</sup>**  
KNEE BOOT  
100' x 100' - 100' x 100' - 100' x 100' - 100' x 100'

**39<sup>99</sup>**  
CELLO SALMON & STEELHEAD RODS  
100' x 100' - 100' x 100' - 100' x 100' - 100' x 100'

**\$25 FISHERMAN'S GIFT CARD W/ PURCHASE**  
100' x 100' - 100' x 100' - 100' x 100' - 100' x 100'

**34<sup>99</sup>**  
6.5AL FUEL TANK  
100' x 100' - 100' x 100' - 100' x 100' - 100' x 100'

**39<sup>97</sup>**  
HIP BOOT  
100' x 100' - 100' x 100' - 100' x 100' - 100' x 100'

**13<sup>99</sup>**  
POWERLOCK ROD HOLDERS  
100' x 100' - 100' x 100' - 100' x 100' - 100' x 100'

**\$50 OFF**  
ALL KEMER TWT HANDGUNS  
100' x 100' - 100' x 100' - 100' x 100' - 100' x 100'

**359<sup>97</sup>**  
HUMMER HD 470C HD 01  
100' x 100' - 100' x 100' - 100' x 100' - 100' x 100'

**1349<sup>99</sup>**  
FINAL PRICES AFTER \$100 OFF, \$100-100 OFF, \$100-100 OFF  
100' x 100' - 100' x 100' - 100' x 100' - 100' x 100'

**649<sup>97</sup>**  
RAYLINE DRAGONFLY SONAR GPS GOLD  
100' x 100' - 100' x 100' - 100' x 100' - 100' x 100'